

BROKEN ARROW CITY COUNCIL MEETING MINUTES

MAY 17, 2004

The Broken Arrow City Council met in regular session in the City Hall Council Chambers on Monday, May 17, 2004, at 7:00 p.m.

1. Mayor Richard Carter called the meeting to order.
2. Invocation was given by Associate Pastor Bradley Gray for Nick Garland.
3. Mayor Carter called for roll call:

Present: Mayor Richard Carter
Vice-Mayor Craig Thurmond
Councilman Wade McCaleb
Councilman Tom Chatterton
Councilwoman Melissa Mahan

Staff Present: Gary Blackford, Acting City Manager
Melanie Bolduc, City Clerk
Michael Vanderburg, City Attorney
April Parnell, Assistant City Attorney
Russell Gale, Human Resources Director
Farhad Daroga, City Planner
Jay Heinrichs, Controller
Todd Wuestewald, Police Chief
Dave Wooden, Public Works Director
Allen Stanton, Chief Building Inspector
Joseph Watt, Acting City Engineer
Greg Neely, Acting Fire Chief
Scott Esmond, Parks Director

4. Mayor Carter led the audience in the pledge of allegiance to the flag.
5. Council considered approval of the regular meeting minutes of May 3, 2004.

Motion by Chatterton, second by McCaleb, to approve the meeting minutes of May 3, 2004.

Aye: Mahan, Chatterton, McCaleb, Thurmond
Nay: None
Abstain: Carter
Motion Carried

- 6A. Council considered presentation of Cox Communications' annual performance evaluation. Acting City Manager Gary Blackford introduced the item and Cox Representative John Bowman provided information regarding the annual review and recapped on certain issues concerning that franchise. He explained that a year ago the franchise was completed and this year their large project is the building, at 51st Street and Garnett near the Broken Arrow Expressway's 129th Street exit, which will allow expansion of services further than currently capable. The building is expected to be finished approximately December 2004. He commented that there has been remarkable progress with the business over the four years of service since March 2000 contributed to communications with their customers and noted an increase of over 20 points of customer satisfaction results and a favorable market from the Broken Arrow area. He explained that since the rebuild there are rarely any calls received other than those for new service and encouraged further growth for Broken Arrow.

In response to an inquiry of Councilman McCaleb, Mr. Bowman explained that under Federal rules Cox must file for an annual adjustment. This year since the re-evaluation of their deals with ESPN and FOX, which resulted in their rates lowering from almost twenty percent to an average of seven and expect the rate adjustment to go as much as eighteen months, but adjustment for a rate increase is not expected for this year. He continued to explain that the time frame for those increases is typically June 15th and is not anticipated to conduct a rate increase next year due to the rate variances.

Council did not indicate any further inquiries of Mr. Bowman and he thanked Council for their time.

Motion by Chatterton, second by Mahan, to accept the presentation of Cox Communication's annual performance evaluation.

Aye: Mahan, Chatterton, McCaleb, Thurmond, Carter
Nay: None
Motion Carried

6B. Council considered the public hearing to abate general public nuisances. Revised List:

TRASH

1316 N. Umbrella Ave. Lt. 24 Blk. 3 Union Station
101 W. Boston St. N150 W111 Lt. 1 Blk. 3A Arrow Acres Ext

WEEDS

1212 W. Inglewood St. Lt. 20 Blk. 9 Windsor Estates
4332 S. Elm Ave. Lt. 9 Blk. 9 Arrow Springs 2
3204 S. Poplar Ave. Lt. 44 Blk. 14 Vandever West
1120 W. Roanoke St. Lt. 20 Blk. 1 South Park Estates 3rd

Mayor Carter introduced the item and stated there had been a revised list provided to Council.

Mr. Brady Foster, 101 W. Boston Street, had signed up to speak in opposition of the hearing to abate. He explained that he is in the process of obtaining the property and is attempting to clean up the site and commented concerning water run off ditch that is muddy with trees and debris along the property that he believed to be City property. He continued to explain that he is planning to have containers delivered to the location to remove most of the debris from the property listed for abatement, but he has limited assistance and resources to accomplish this task.

In response to Mayor Carter's inquiry concerning the anticipated additional amount of time needed, Mr. Foster explained that he was concerned whether or not the ditch would be included in the area he is to clean and commented that he would not be able to keep that area clean, as it is a continuing problem, but suggested an addition two months to complete the cleanup of his property.

Mayor Carter responded that though extensions have been granted in the past, he was unaware of Council granting a two month extension.

Mr. Foster commented that there are years of accumulated debris and overgrowth on the property, including structures, that had just recently become visible due to the fact that the property had recently been split and a new house built at the location.

In response to Councilwoman Mahan, Mr. Foster commented that he believed he could clear nearly half of the project within the next thirty days, considering there are large items to be removed that will not fit in the back of an average pickup truck.

Mayor Carter introduced Chief Building Inspector Allen Stanton. Mr. Stanton explained that he is aware that Mr. Foster and Code Enforcement Officers have been in contact regarding the discussed property and that a house has recently been constructed on that tract. He commented that the drainage ditch has been there for many years and explained that there have been problems with debris in that area. He suggested that since it's a large project involved with the total cleanup that if Mr. Foster could keep up with the weed growth at the location he expressed he would be in favor of providing an extension of time approximately thirty days for future review of the situation and monitor any actions that have been taken.

In response to Councilman McCaleb, Mr. Stanton explained that the ditch area has been a problem prior and it would need to be looked into. He expressed concern that the way it is draining may be through private property, same as other drainage ditches that go through private property. That this area, he believes, is a drainage easement which would be the private property owner's responsibility to maintain, unless there are some other arrangements made.

Mayor Carter commented that it would be displeasing to Council if an extension is provided that within those thirty days there is little, or no change.

Mr. Foster commented that he does not have the resources to cleanup the ditch and asked if the City may provide assistance with the cleanup of that area. He provided pictures to the Council of the area being discussed.

Mayor Carter explained that the Inspections Department will keep in contact with Mr. Foster concerning that issue.

Motion by Chatterton, second by McCaleb, to approve a thirty day extension and reevaluate at the end of the thirty days.

Aye: Mahan, Chatterton, McCaleb, Thurmond, Carter
Nay: None
Motion Carried

Mr. Earl Teske, 10323 S. 200th E. Avenue, signed up to speak concerning Item 6B. He provided his congratulations to the Council and City Staff on the recent successful bond election. He recapped on some areas near his neighborhood and other parts of Broken Arrow that he views as public nuisances that he had commented on during the last Council meeting. He commented that he had not noticed any changes to those locations.

Motion by McCaleb, second by Thurmond, to approve the abatement of the remaining locations on the revised list, other than 101 W. Boston Street which a thirty day extension had been approved.

Aye:	Mahan, Chatterton, McCaleb, Thurmond, Carter
Nay:	None
Motion	Carried

Item 7, Citizen's Opportunity to address the Council, was covered after Item 8, Consent Agenda.

8. Council considered the Consent Agenda.

- A. Approval of payroll for May 21, 2004
- B. Approval of payroll for June 4, 2004
- C. Approval of and authorization for the Mayor to execute and present a proclamation declaring June 4, 2004, as "American Cancer Society's Relay For Life of Broken Arrow Day" in the City of Broken Arrow
- D. Approval of the special events request from the Late Great Chevy Show Association for the use of a public address system for their 18th "Carousel of Cars" charity car show scheduled for June 12, 2004, from 12:00 noon to 9:30 p.m., at Central Park in the City of Broken Arrow
- E. Approval of the employee health, dental and life benefit plan for fiscal year 2004 – 2005 with the Oklahoma Municipal Assurance Group
- F. Approval of contract with Explorer Pipeline to encase their 24 inch pipeline where it crosses Albany Street east of Elm Place
- G. Approval of request for Code variance, and authorization for the Public Works director to design Albany Street from Elm Place to 9th Street
- H. Approval of conditional Vacation of Plat for the Lucian Addition, Tulsa County, Oklahoma
- I. Approval of amendments to Fiscal Year 2003 Community Development Block Grant Program
- J. PT03-121, DN03-173, Water Tower Park, PUD 131B, 13.4 acres, 2 lots, west of the southwest corner of New Orleans and Elm Place (Engineer: Tanner Consulting)
- K. BAZ 1635, 39.6 acres, R-2 to R-2S, north of Florence Street, one-quarter to one-half mile east of Aspen Avenue (Applicant: Joe E. Donelson)
- L. BAZ 1636, 2.64 acres, O-3 and C-2 to C-5, south side of Oakland Place, 400 feet east of Elm Place (Applicant: Bill Wilson)
- M. BAZ 1638, 37.89 acres, R-2 and C-2 to R-3 and C-2, northeast corner of Florence (111th) Street and Mingo Road (Applicant: Planning Design Group)
- N. Approval of DEQ permit for the construction of PVC potable water line and all appurtenances to serve the City of Broken Arrow system improvements (Permit No. WL000072040402)
- O. Approval of DEQ permit for the construction of PVC, sanitary sewer line extension, and all appurtenances to serve Stone Wood Hills II Addition (Permit No. SL000072040403)
- P. Approval of Claims List

Motion by Thurmond, second by McCaleb, to approve all Consent Agenda Items A through P.

Aye:	Mahan, Chatterton, McCaleb, Thurmond, Carter
Nay:	None
Motion	Carried

9. Consideration of Items Removed from Consent Agenda.

No Items were removed from the Consent Agenda.

7. Citizen's Opportunity to Address the Council (approximately 7:30 p.m.)

No attendees had signed up to speak under Item 7.

10. General Council Business

A. Council considered the appointment of Planning Commission and Board of Adjustment members.

Acting City Manager Gary Blackford introduced the item and provided background information.

Motion by McCaleb, second by Mahan, to appoint Ron Carter to serve on the Planning Commission.

Aye: Mahan, Chatterton, McCaleb, Thurmond, Carter
Nay: None
Motion Carried

Motion by Thurmond, second by McCaleb, to appoint Ralph Crotchett to serve on the Board of Adjustment.

Aye: Mahan, Chatterton, McCaleb, Thurmond, Carter
Nay: None
Motion Carried

B. Council considered approval of, and authorization for the Mayor to execute Resolution No. 377 for the adoption of the Multi-Hazard Mitigation Plan (MHMP) and amend the Broken Arrow Comprehensive Plan for the City of Broken Arrow.

Acting City Manager Gary Blackford introduced the item and provided background information.

Motion by Thurmond, second by Mahan to authorize the Mayor to execute and adopt Resolution No. 377 for the Multi-Hazard Mitigation Plan (MHMP).

Aye: Mahan, Chatterton, McCaleb, Thurmond, Carter
Nay: None
Motion Carried

Mayor Carter announced an oversight that Mr. Teske had signed up to speak on Item 10A. He stated that since he had signed up to speak on multiple items he may do so all at once, rather than needing to get up and down for each one.

Mr. Earl Teske, 10323 S. 200th E. Avenue, signed up to speak on the following Items: 10A, 10B, 10C, 10D, 10E, 12A, 13A, 13B, 13C and 14. He commented on Item 10A that he is aware of many City committees and suggested that Council consider a citizens' committee, such as the one used during the development of the bond issue items, for suggestive membership. He stated he would provide the Mayor with a letter of suggestions for Council's consideration pertaining to this matter. He commented on Item 10C and requested information pertaining to when the 2004-2005 Budget will be available for public review and whom to contact to obtain that information. He explained that he would not ask for a response at that time, but that a written response would be acceptable to him. He commented on Item 10D and his concerns regarding Resolution No. 378, pertaining to the waiver for competitive bidding, and indicated he was not in favor of this waiver and suggested tabling item for further consideration to avoid waiving competitive bidding. He commented on Item 10E, Resolution No. 379, and expressed his concerns that he believed that the City would become a landlord for businesses that are in the city from which the City receives revenues and explained that it appears to be a conflict of interest. He commented on Item 12A and explained that it appears that emergency clauses are used frequently and that he did not believe that there were any emergencies articulated an emergency for any such ordinances. He commented on Item 12B "increasing penalties" and explained that he interpreted the 2003 Legislature, according to information he obtained from the Tulsa County Courthouse, has some changes raising fees and inquired as to whether that applied to the City and stated he was not sure and that he did not have the details. He commented on Ordinances that are on the Agenda for adoption during this meeting and explained that they all indicate emergency clauses and that he did not believe there were any emergencies articulated. He continued to express that transferring certain powers of purchasing to the Director of

Public Works he reflected back to his opinion of competitive bidding. He commented on Item 14 and that he understand the need of executive sessions, but expressed that he believes that the results of the meetings are not evident.

Mayor Carter explained that he believed most of Mr. Teske's questions and concerns would be answered as the meeting continues through the remainder of the Agenda.

C. Transmittal of City's Proposed Fiscal Year 2004 – 2005 Budget.

Acting City Manager Gary Blackford introduced the item and provided information pertaining to the transmittal of the City's Proposed Fiscal Year 2004-2005 Budget and explained that the total expenditures, including projects, total just over 127 million dollars for this coming year which encompasses over 25 different funds of the City. He commented that the Public Hearing for the budget is scheduled for June 7, 2004 and suggested that a work session be scheduled prior to that date for department heads and staff members to be available for any inquiries Council may have and that may be set at anytime which is convenient for Council.

After brief Council discussion it was determined that a special public workshop meeting is to be scheduled for 5:00 p.m. on Tuesday, June 1, 2004 in City Hall Council Chambers.

Motion by Chatterton, second by Mahan, to accept the transmittal of the City's Proposed Fiscal Year 2004-2005 Budget and set the special public workshop meeting for 5:00 p.m. on Tuesday, June 1, 2004 in City Hall Council Chambers.

Aye:	Mahan, Chatterton, McCaleb, Thurmond, Carter
Nay:	None
Motion	Carried

D. Council considered Resolution No. 378 authorizing the issuance of the city's sales tax revenue note, series 2004, in the principal amount of \$4,000,000 for the purpose of financing capital improvements to the city; waiving competitive bidding and authorizing said note to be sold on a negotiated basis; approving and authorizing execution of a note indenture providing for the issuance and securing the payment of said note; authorizing and directing the execution of the note and related documents; and containing other provisions relating thereto.

Acting City Manager Gary Blackford introduced Rick Smith, Municipal Finance Service, and explained that Don Kiser, Fagin Brown Bush Tinney & Kiser, which is the City's bond advisor, is also present for any inquiries Council may have.

Rick Smith, Municipal Finance Service, explained that Resolution No. 378 would allow the City to issue a year to year note that would be purchased by Bank of America in Oklahoma City. He continued to explain that the purpose of the note would be to construct certain infrastructure improvements out near the Bass Pro development site as well as other areas in that vicinity, primarily for constructing water and sewer lines, detention ponds, gas pipeline relocations and other infrastructure improvements. This particular note is to be sold to Bank of America, according to the Agenda and terms of negotiated sale, where the City is waiving competitive bidding. The reason being that Bank of America currently holds the security, which is certain sales tax that the City pledged to the Justice Center note two years ago to construct that facility. Bank of America had agreed to take a subordinate, or junior, lien position to that particular sales tax to secure this note. The note would mature in 2012 so it would amount to approximately and eight and half year term and is being issued on a taxable, not a tax exempt basis, because of the nature of the improvements and it will be issued as a variable, or adjustable, rate note with the rate changing every six months in accordance with the provisions of the note. He explained that Mr. Kiser had drafted the Resolution and he is available for any Council inquiries; also present was Robert Dudley, a representative of Bank of America out of Oklahoma City.

Mayor Carter in response to prior inquiries of Mr. Teske explained that the waiver for competitive bidding was because it would be subordinate to an existing note and Mr. Smith confirmed.

Motion by Chatterton, second by McCaleb, to adopt Resolution No. 378 as presented for the purpose of securing funds for infrastructure improvements and to promote economic development.

Aye:	Mahan, Chatterton, McCaleb, Thurmond, Carter
Nay:	None
Motion	Carried

- E. Council considered Resolution No. 379 accepting the deed of real property to the City of Broken Arrow; accepting an Assignment of Lease With Options and Contracts between Stone Wood Hills B.P., L.L.C and Bass Pro Outdoor World, L.L.C.; assuming certain obligations incurred by Stone Wood Hills B.P., L.L.C. pursuant to certain construction contracts, a promissory note to Bank of America, N.A., and other loan documents in connection therewith; authorizing execution of a Sales Tax Pledge Agreement and other documents relating to the financing and construction of a Bass Pro retail store in the City; and containing other provisions relating thereto.

Acting City Manager Gary Blackford explained that Rick Smith, Municipal Finance Service, and Don Kiser, Fagin Brown Bush Tinney & Kiser are both present for any inquiries Council may have.

Mr. Rick Smith, Municipal Finance Service, explained that his company has been working with Stone Wood Hills and Bank of America and other officials in regards to this particular transaction for several weeks. Resolution No. 379 to assume, or the assumption, the assignment of certain documents related to the Stone Wood Hills financing that was actually closed last week. That transaction was closed the week prior between Stone Wood Hills and Bank of America and his company has reviewed the provisions of that particular transaction and has recommended the City accept the assignment of the lease, assignment of the note, assignment of contract and also the transfer of the property. He explained that also present for Council inquiries are Mr. Phil Roland, Assistant City Attorney April Parnell, along with those already mentioned.

Mayor Carter commented that the City's representatives and Council have reviewed the documents and expressed that it appears to be a valid and proper way to be handled.

Motion by Chatterton, second by McCaleb, to adopt Resolution 379 as presented.

Aye:	Mahan, Chatterton, McCaleb, Thurmond, Carter
Nay:	None
Motion	Carried

11. Remarks and Inquiries by Governing Body Members.

No remarks were provided.

12. Preview Ordinances:

- A. An ordinance amending the Broken Arrow Code by amending 7-91 by correcting the regulatory fee for pawnshops within Broken Arrow to be fifty (\$50.00), repealing all ordinances to the contrary; and declaring an emergency.
- B. An ordinance amending the Broken Arrow Code by amending Section 1-8, making technical modifications to the general penalty provisions of the Broken Arrow Code by increasing certain penalties to the maximum allowed by Oklahoma law, amending Section 14-7 by requiring the municipal judges to meet a state mandated education requirement, amending Section 14-32 by setting forth the costs and fees applicable to municipal court, amending Section 14-33 by increasing the amount of the credit available to those working off a fine, all as necessary to comply with enrolled House Bill No. 2606 as adopted by the State Legislature and signed by the Governor, repealing all ordinances to the contrary, and declaring November 1, 2004 as the effective date.

City Attorney Michael Vanderburg provided background information for the proposed preview ordinances and the purposes they would serve.

In response to Councilwoman Mahan, Mr. Vanderburg explained that the emergency clause is essentially a legislative device that allows the ordinance to go into effect immediately. If the emergency clause is left off, then one of two things would happen, either Council sets a separate specific effective date, as has been done in Item 12B, or the ordinance becomes automatic thirty days after adoption. Those are the only two remaining options. In most cases there's not a reason to wait the thirty days, so it is used commonly, but do not use it exclusively, there are quite a number that do not have them, in example there were several on the agenda for the last Council meeting that did not have them.

Mayor Carter noted that there are several other Cities that also use the same procedures for emergency clauses.

Councilman McCaleb commented that under Agenda Item 12B, Section 14-33(a) the fee was raised from five dollars to twenty-five dollars, but Section 14-33(b) had not been changed. He inquired as to whether or not it is correct, since they pertained to two different items. In response, Mr. Vanderburg expressed that he would meet with the Prosecutor to verify whether or not it is accurate to the existing law.

Motion by McCaleb, second by Chatterton, to advance Preview Ordinances “A” and “B” to the next agenda for possible approval.

Aye: Mahan, Chatterton, McCaleb, Thurmond, Carter
Nay: None
Motion Carried

13. Ordinances:

- A. ORDINANCE NO. 2626 - Corrected - An ordinance amending the Broken Arrow Code Chapter 2 Sections 2-24, 2-25, and 2-88, transferring certain powers to purchase supplies, materials, equipment and contractual services to the Director of Public Works, for a period not to exceed June 30, 2006, and to exempt such purchases from competitive bidding, repealing all ordinances to the contrary, and declaring an emergency.
- B. ORDINANCE NO. 2631 - An ordinance amending the Broken Arrow Code by amending Section 16-60.1 by changing the time requirement and increasing the cost for each sign removed from the street right of way, providing for presumptions in the event of prosecution, repealing all ordinances to the contrary, and declaring an emergency.
- C. ORDINANCE NO. 2632 - An ordinance amending the Broken Arrow Code §16-14 by changing the maximum permissible sound levels from stationary sources; repealing all ordinances to the contrary and declaring an emergency.

City Attorney Michael Vanderburg provided background information of the proposed ordinances for adoption.

Larry Wallace, 4711 S. 199th E. Avenue, signed up to speak in favor of Item 13B and expressed his interesting changing the time limit to eight hours that the City would have to keep the signs. He commented that there are still voting signs in the right-of-way that have been there almost a week.

Councilman Chatterton inquired as to the location of the referenced signs. In response, Mr. Wallace stated they were on 51st Street by The Greens Apartments.

Mayor Carter explained that when the City was aware that the signs had been placed in the rights-of-way Public Works crews were out removing them.

Mr. Wallace explained that he is not opposed to the signs in the rights-of-way for minimal durations, such as realtors’ open house signs that are placed for short periods if time then removed, but that after eight hours they appear to be a public nuisance. He believes that individuals should be responsible for them and be required to pay to retrieve them back.

Mayor Carter continued to explain that the City’s crews during the past Monday and Tuesday that had picked up almost 1,100 signs from the rights-of-way, not all of which were election signs and they will continue to pick them up. Mayor Carter addressed the Public Works Director and informed him that while he had stepped out of the Council Chambers it was brought to Council’s attention that there are signs in the right-of-way along 51st Street near The Greens Apartments.

Mr. Vanderburg explained that the fifty dollar fee indicated in the proposed ordinance is not as a fine, but more in the nature of what it would take to reclaim the signs in a nuisance abatement setting, but is not a criminal fine in the sense, and that the three day period is not the time they have to be in the right-of-way, it’s the amount of time for which they are to be at the Public Works facility for somebody to pick them up. The signs can be picked up if we can catch them at it, the signs can be picked up instantly when being put in the right-of-way, there’s no delay in the field, as such. This simply gives a sign owner to challenge whether or not the City picks the signs up properly, theoretically thought it was in the right-of-way, but proved that it was not and gets the owner a chance to recover his property.

Mr. Dave Wooden, Public Works Director, explained that the crews try to pick up the signs from the rights-of-way at least two to three times a week working from one end of the City to the other when there was the blossoming of signs and they picked up over 1,100 signs. If the day after the Council meeting was to be a rain day they would continue and he will have them investigate The Greens area, as he indicated he was not aware of that particular issue. He continued to explain that if the signs are

on the north side of 51st Street then that would be the jurisdiction of Tulsa County and would not be the City of Broken Arrow.

Mayor Carter thanked Mr. Wooden and announced that another individual had signed up to speak.

Mr. Monte McGlothlin, 19603 E. 50th Street, signed up to speak in favor of Item 13B and commented that he believed a request from an individual business man from Broken Arrow during the last meeting asked for the temporary signage ordinance to be amended so that he may place his signs out on the weekends. He noted that no action was taken and that he believed the annotated agenda indicated it would be continued to the current meeting, which it had not.

Mayor Carter explained that he understands that the tape was unclear and that is how it is shown in the annotated, but actually the Council minutes indicate correctly that Council intended for it to continue to a future meeting.

Mr. McGlothlin commented that he wanted it noted that he is in favor of Item 12B, but would like to bring up other issues. He referenced an article printed Saturday, April 17, 2004 that quoted Council members comments concerning Broken Arrow's sign ordinance. He commented on Meadow Homes that appear to be placing more and more signs. The weekend he read the article he had personally picked up many signs and took them to the model home and explained to the man what he had been doing was against City ordinance and that the next time he picked them up they would not be getting them back. He explained that he had spoken with the City's Code Enforcement and he interpreted from that conversation that any signs left in the City's right-of-way are considered abandoned and therefore trash. He continued to explain how the following weekend he had picked up at least forty signs within two miles from his home and he still has those and that the man that applied for the exception of the ordinance had called Wagoner County Sheriff's Department and filed a complaint against him for theft. He commented that "Curry" had come to his house and he invited Code Enforcement Officer Gary Arnold to meet with them to discuss the jurisdiction issues and he believes the meeting went nowhere. The following weekend he picked up an additional fifteen to twenty more of the same type of signs and another complaint was filed with Wagoner County and they again came to his house, they read him his rights and he provided them with a statement and that nothing else transpired. He indicated that he believes they are awaiting action from the City of Broken Arrow. He apologized for not picking up signs the weekend of Mothers' Day, as he was out of town and that he had been informed that this individual had petitioned the Council at their last meeting for an exception to the ordinance. Though he did not intentionally go to pick up signs that weekend he noticed three that were in his "beaten path, clearly within the City limits of Broken Arrow" and he called and asked for a police officer to meet me at the location. He explained that he understood that is not in their realm of responsibility, but Code Enforcement was not working on the weekend and he wanted City personnel to witness the issue and lend some credibility to the issue is currently discussing. Mr. McGlothlin provided Council with a sign that he had brought to the meeting that had written on the back of the sign that it had been legally placed by City Code by being in the utility easement, but nearly half the signs he had picked up had the same writing or personally threatening messages to him. He claimed that his yard had been torn up with trenching caused by being driven through, and that he is not clear as to the person responsible, but that the notes on the signs he interprets as indications of responsibility. He explained that he is not the victim, but rather the City of Broken Arrow and the City should not grant the exception to the ordinance. He explained that there are currently nine signs in the yard of the Meadow Home model home for advertising purposes and further in the addition the additional model home has two signs in the yard, which he had pictures available to provide to Council. He commented on his conversation with one of the developers regarding the amount of lots between the two developments. He referenced radio advertisements that may be turned off, which is not the option for driving down the road and seeing multiple signs, such as along Kenosha and County Line Road. He inquired as to the regulation of such in the event an exception to the ordinance is granted.

Councilman Thurmond explained that Council had not discussed any exceptions to the ordinance and that the gentleman that had been before Council had been told that the City does not allow signs in the rights-of-way. The policy of the City is to not allow signs in the rights-of-way.

Mr. McGlothlin commented that he would like to know how the enforcement of the ordinance will be done when Code Enforcement works Monday through Friday and not on the weekends.

Councilman McCaleb explained that in the past the offense would have to be witnessed in order to issue a citation.

In response to Mr. McGlothlin, Council advised him that he would need to discuss with the City's Legal Department concerning the issue of whether or not he may pick up signs from the right-of-way for the City.

In response to Mr. McGlothlin, Mr. Wooden explained that there are certain areas that are annexed into the City and he would need to verify the locations because the boundaries are a "checkerboard".

Mayor Carter explained that by Mr. McGlothlin picking up signs he risks picking up both those within the City's and County's right-of-way because of the boundaries and provided an analogy as to where this may cause a problem with possible allegations of competitors relocating the signs to cause them to be picked up.

Acting City Manager Gary Blackford explained that some issues have been brought up concerning the discussed request and staff is preparing to bring this to Council during their next meeting.

Mr. McGlothlin offered the Council the article he referenced prior and the sign he had brought in.

Motion by Chatterton, second by McCaleb, to adopt Ordinance No. 2626-Corrected, Ordinance No. 2631 and Ordinance No. 2632.

Aye: Mahan, Chatterton, McCaleb, Thurmond, Carter
Nay: None
Motion Carried

Motion by McCaleb, second by Thurmond, to adopt the emergency clauses for Ordinance No. 2626-Corrected, Ordinance No. 2631 and Ordinance No. 2632.

Aye: Mahan, Chatterton, McCaleb, Thurmond, Carter
Nay: None
Motion Carried

Motion by Mahan, second by Chatterton, to recess for the Broken Arrow Municipal Authority meeting before returning for Executive Session.

Aye: Mahan, Chatterton, McCaleb, Thurmond, Carter
Nay: None
Motion Carried

Mayor Carter announced a break in the City Council meeting at the noted time of 8:18 p.m.
Mayor Carter reconvened the regular session of the City Council at the noted time of 8:35p.m.

Motion by Thurmond, second by Mahan, to enter into Executive Session.

Aye: Mahan, Chatterton, McCaleb, Thurmond, Carter
Nay: None
Motion Carried

14. **Executive Session** for the purpose of confidential communications between the City Council and its attorney concerning a claim and possible settlement of ONG v BA and OGT v BA, under 25 O.S. § 307B4. In the opinion of the City Attorney, the Council is advised that disclosure will seriously impair the ability of the public body to process the claim or conduct a pending proceeding in the public interest. Ultimately, the Council must make this determination. After the conclusion of the confidential portion of meeting, the Council will reconvene in open meeting, and the final decision, if any, will be put to a vote.

Mayor Carter reconvened the regular session of the City Council at the noted time of 9:38 p.m.

Motion by Thurmond, second by Chatterton, to authorize Public Works Director Dave Wooden to negotiate with ONG and OGT.

15. Adjournment

Motion by Chatterton, second by McCaleb, to adjourn.

Aye: Mahan, Chatterton, McCaleb, Thurmond, Carter
Nay: None
Motion Carried

The meeting adjourned at the noted time of 9:40 p.m.

Chairman

Secretary

BROKEN ARROW MUNICIPAL AUTHORITY MEETING MINUTES
May 17, 2004

The Broken Arrow Municipal Authority met in regular session in the City Hall Council Chambers on Monday, May 17, 2004, after the Broken Arrow City Council meeting, which began at 7:00 p.m.

1. Chairman Richard Carter called the meeting to order at the noted time of 8:18 p.m.
2. Chairman Richard Carter called for roll:

Present: Chairman Richard Carter
Vice- Chairman Craig Thurmond
Trustee Wade McCaleb
Trustee Tom Chatterton
Trustee Melissa Mahan

Staff Present: Gary Blackford, Acting City Manager
Melanie Bolduc, City Clerk
Michael Vanderburg, City Attorney
April Parnell, Assistant City Attorney
Russell Gale, Human Resources Director
Farhad Daroga, City Planner
Jay Heinrichs, Controller
Todd Wuestewald, Police Chief
Dave Wooden, Public Works Director
Allen Stanton, Chief Building Inspector
Joseph Watt, Acting City Engineer
Greg Neely, Acting Fire Chief
Scott Esmond, Parks Director

3. Members considered approval of regular meeting minutes of May 3, 2004.

Motion by McCaleb, second by Chatterton, to approve the meeting minutes of May 3, 2004.

Aye: Mahan, Chatterton, McCaleb, Thurmond
Nay: None
Abstain: Carter
Motion Carried

4. Members considered approval of payroll for May 21, 2004.

Motion by Chatterton, second by McCaleb, to approve the payroll for May 21, 2004.

Aye: Mahan, Chatterton, McCaleb, Thurmond, Carter
Nay: None
Motion Carried

5. Members considered approval of payroll for June 4, 2004.

Motion by Mahan, second by Chatterton to approve the payroll for June 4, 2004.

Aye: Mahan, Chatterton, McCaleb, Thurmond, Carter
Nay: None
Motion Carried

6. Members considered approval of the preliminary fiscal year 2004 – 2005 Broken Arrow Public Golf Authority Financial Plan.

Acting City Manager Gary Blackford explained that the proposed preliminary fiscal year 2004-2005 Broken Arrow Public Golf Authority Financial Plan calls for an expenditure of \$1.953 million as compared to \$1.924 million in the 2003-2004 budget. This budget also includes a fixed management fee of \$634 thousand for the management group and \$96 thousand for the Capital Improvements.

In response to Councilman Thurmond, Finance Director Tom Caldwell explained that the management fee to Buffalo Golf Group for which is responsible for personnel cost and maintain the golf course at a certain level. The \$18,000 is 50% split of the salary and benefits for the City employee that is provided to do the accounting work at the golf course. Since this individual is an employee of the City the \$18,000 is charged to the Buffalo Golf Group. He continued to reply that the earliest for the debt service for the bond to be paid off would be August 2005, that would have a

2% premium that would need to be paid if the bonds were called early and a 1% premium the following year and even in 2007.

Motion by Chatterton, second by McCaleb, to approve the preliminary fiscal year 2004 – 2005 Broken Arrow Public Golf Authority Financial Plan.

Aye: Mahan, Chatterton, McCaleb, Thurmond, Carter
Nay: None
Motion Carried

7. Members considered approval of sole source contract for disposal of solid waste.

Dave Wooden, Public Works Director, provided background information. He explained that BFI had closed the landfill in Broken Arrow and the City began transporting to the landfill in Porter and that there have been several different problems with routes on Wagoner County streets due to the weight of the transport units. He commented that BFI has set a route and would like to provide funds to bring the road to the Porter landfill up to highway standards for incoming traffic and has offered to maintain the streets for a rate; therefore, BFI has approached the City, which has a current agreement that is to expires in 2005, and has requested that the City enter into a long-term agreement. Mr. Wooden explained that he had obtained cost from Quarry Landfill and compared the City's accumulated charges since January 2002 and at the current time the price per ton including state tax is approximately \$10.93 per ton. He continued by referencing meetings with BFI which resulted in the price being lowered to \$10.85 per ton, including tax which would be the lowest in the past 3 years. He believes that this would allow the best service possible for the City concerning the alternative access, routes and cost to the Quarry Landfill.

In response to Councilman Chatterton, Mr. Wooden commented that the Porter landfill has an anticipated life span of 25 years and the proposed contract would be for 10 years in anticipation that another location could be opened.

In response Councilman McCaleb, Mr. Wooden responded that Public Works' desire is to expand the facility since it is growing out of the current location and utilize the land that had originally been intended for a potential refuge transfer station; since a transfer station would not be cost efficient considering there are landfills within 50 miles of Broken Arrow. He also explained that the life of the sanitation trucks have increased from 5 to 7 years by cutting the work to 4 days a week and are running less and that the downtown miles cause the most wear on the vehicles with the stopping and restarting, not highway/straightaway miles. He also responded that he believes he would be able to maintain the 4 days a week if he is able to hire additional employees.

Motion by Chatterton, second by McCaleb, to approve the Authority to authorize the Public Works Director to negotiate a sole source contract for disposal of solid waste and bring a contract back to the Authority for approval.

Aye: Mahan, Chatterton, McCaleb, Thurmond, Carter
Nay: None
Motion Carried

8. Members considered approval of Claims.

Motion by McCaleb, second by Thurmond, to approve claims.

Aye: Mahan, Chatterton, McCaleb, Thurmond, Carter
Nay: None
Motion Carried

9. Members considered adjournment.

Motion by Chatterton, second by McCaleb, to approve adjournment.

Aye: Mahan, Chatterton, McCaleb, Thurmond, Carter
Nay: None
Motion Carried

Meeting adjourned at the noted time of 8:33 p.m.

Chairman

Secretary

